



STATE OF CONNECTICUT

OFFICE OF VICTIM ADVOCATE
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Testimony of Michelle Cruz, Esq., State Victim Advocate
Judiciary Committee
Monday, March 22, 2010

Good morning Senator McDonald, Representative Lawlor and distinguished members of the Judiciary Committee. For the record, my name is Michelle Cruz and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony in **SUPPORT** of:

Raised House Bill No. 5502, *An Act Concerning Habeas Corpus Reform*

It has come to the attention of the OVA that there is concern in both the criminal justice community and the victim community that the current habeas corpus system in Connecticut is flawed and is adversely affecting victims, prisoners and the judicial system. Because of the multiple habeas corpus petitions that prisoners file, without apparent time limitations, victims feel further victimized because there is no finality in their case.

Likewise, due to the lack of structure for habeas corpus claims, some prisoners mistakenly believe that by simply filing numerous habeas petitions, they will be granted release from prison. While the OVA understands the importance of habeas corpus appeals, a restructuring of the habeas corpus system is a necessity. Excessive filings by prisoners, frivolous claims, judicial backlog and fiscal expense to the state are all indicators of the need to restructure the habeas corpus system in Connecticut.

In an effort to further understand the opinions of other criminal justice agencies regarding a restructuring of the habeas corpus system, the OVA formed a focus group in August of 2008 to study the issue and gather information. A fifty state survey was conducted by the Office of the Chief State's Attorney wherein thirty-one states and the federal government have adopted a statute of limitations for the filing of habeas corpus petitions. The majority of states allow for a one to two year statute of limitations; the federal government provides for a one year statute of limitations.

Most habeas corpus appeals are filed on a claim of ineffective assistance of council, among other claims. In some cases, the ineffective assistance of council claim is being filed as late as ten years and more after the conviction. This becomes problematic as witnesses, including attorneys, may have moved on or even died. Not only is it difficult for the state's attorney to investigate and litigate habeas corpus petitions that are filed after a long period of time, similarly the defense will also experience difficulties in proving their claim for the same reasons. In addition, the trauma of endless and often frivolous appeals, which are a constant reminder of the crime committed against the victim, leads to further harms and a feeling of helplessness for crime victims.

Furthermore, in some cases our current system is a tool for the prisoner to abuse the habeas corpus system in order to further victimize the victim and/or their families.

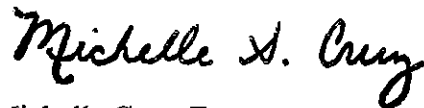
It is important to point out that the habeas corpus proposal offered here today by the state's attorney, provides a safety hatch for claims of actual innocence as well as a mechanism for prisoners who have a valid explanation for their delay.

You keep hearing about the numerous case loads of habeas appeals for public departments. I ask you to think what causes that large caseload? I suggest it is frivolous and repetitive claims. Every public defender takes an oath to zealously defend their client and unlike a prosecutor, there is no requirement per se to exclude frivolous or unwarranted claims; if the state instills time limits the public defender will be able to focus on appropriately filed claims that are ripe for appeal. Furthermore why do innocent people stay incarcerated so long- again- because of frivolous claims bogging down the system. It is, in a weird way, not only just but also economical to bring these cases of innocence to light quickly to acquit the innocent, find the guilty and save money for the eventual lawsuits for wrongful incarcerations- as crass as that sounds.

In addition, the parade of horrors are often presented by the public defenders of a landslide of cases coming as a result of a change to our current disorganized system is a fiction. There will be an uptick at first- and as is always the case, the system will adjust and things will run smoothly again.

Connecticut is often ahead of other states with the passage of groundbreaking legislation; unfortunately, that is not the case with a statute of limitations for habeas corpus filings. I strongly urge the committee to support House Bill No. 6705 and bring finality for crime victims as well as the criminal justice system. Thank you for consideration of my testimony.

Respectfully submitted,

A handwritten signature in black ink that reads "Michelle A. Cruz". The signature is written in a cursive, flowing style.

Michelle Cruz, Esq.
State Victim Advocate